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Kunde Enterprises, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

KUNDE ENTERPRISES, INC.,

Plaintiff,

v.

NATIONAL SURETY CORPORATION,

Defendant.

CASE NO. 4:19-cv-06636-JSW

**DECLARATION OF JAMES A. TABB
IN SUPPORT OF PLAINTIFF KUNDE
ENTERPRISES, INC.'S MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Hearing Date: May 6, 2022
Time: 9:00 a.m.
Courtroom: 5

Pre-Trial Conference Date: March 14, 2022
Trial Date: May 16, 2022

1 I, James A. Tabb, declare as follows:

2 1. I am an attorney at the law firm of Latham & Watkins, LLP and counsel of record
3 for Plaintiff Kunde Enterprises, Inc. (“Kunde”). I am licensed to practice in the State of
4 California and am a member in good standing of the United States District Court for the
5 Northern District of California. The below Declaration is based on my personal knowledge or on
6 information I have received and believe to be true; and if called upon, I could and would testify
7 competently thereto. Pursuant to Local Rule 7-5, I submit this declaration in support of Kunde’s
8 Motion for Partial Summary Judgment and Kunde’s Request for Judicial Notice in support
9 thereof, filed concurrently herewith.

10 2. Attached as **Exhibit 9** to the Appendix of Joint Exhibits in Support of Parties’
11 Cross-Motions for Summary Judgment (“Joint Appendix”) are excerpts from the California
12 Department of Forestry and Fire Protection’s (“CAL FIRE”) published a report titled “2017
13 Wildfire Activity Statistics,” dated April 2019, which my office obtained from the CAL FIRE
14 website, at https://www.fire.ca.gov/media/10059/2017_redbook_final.pdf. Rather than including
15 the entire 53-page report, the excerpted portions are the title pages, table of content, and Table 5
16 depicting “Large Fires 300 Acres and Greater – State and Contract Counties Direct Protection
17 Area.”

18 3. Attached as **Exhibit 10** to the Joint Appendix is a true and correct copy of a map
19 published by the Metropolitan Transportation Commission (“MTC,” the transportation planning,
20 financing and coordinating agency for the San Francisco Bay Area), titled “2017 North Bay
21 Wildfire Affected Areas,” which my office obtained from the MTC website, at
22 https://mtc.ca.gov/sites/default/files/motm_11_09_17.pdf (note that the map also references CAL
23 FIRE as a source of the map).

24 4. Attached as **Exhibit 11** to the Appendix is a true and correct copy of a printout
25 my office made from the Google Map website reflecting the location of Kunde Estate is located
26 at 9825 Sonoma Hwy, Kenwood, CA 95452, in Sonoma County. A true and correct copy of a
27 map of Kunde’s location that my office obtained from the Google Maps website is attached as
28 **Exhibit 11** to the Joint Appendix.

1 I declare under penalty of perjury that the foregoing is true and correct. Executed in
2 San Diego, California on February 18, 2022.

A handwritten signature in black ink, appearing to read 'J. Tabb', written over a horizontal line.

James A. Tabb